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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application

Inventor(s): Timothy Breeden and Doug Dew
Appln. No.: 10/733,989
Confirm. No.: 2063
Filed: December 11, 2003
Title: SYSTEM AND METHOD FOR
SOFTWARE APPLICATION
DEVELOPMENT IN A PORTAL
ENVIRONMENT

PATENT APPLICATION

Art Unit: Unassigned
Examiner: Unassigned

Customer No.: 23910

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

I hereby certify that this correspondence is being deposited in the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Mail Stop PETITIONS, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450, on November 7, 2005.

(Agent Signature)

Karl Kenna, Reg. No.: 45,445
Signature Date: November 7, 2005

**REQUEST FOR RECONSIDERATION OF PETITION
UNDER 37 C.F.R. §1.47(a)**

AND

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT
UNDER 37 C.F.R. §1.818(a)**

Mail Stop PETITIONS
Commissioner for Patents
Washington, DC 20231

Sir:

This Request for Reconsideration of Petition under 37 C.F.R. §1.47(a) is in reply to the Decision Refusing Status Under 37 C.F.R. §1.47, mailed by the Office on June 6, 2005. The present Reply addresses those deficiencies that were noted in the Decision Refusing Status.

Declaration

- 1 -

11/10/2005 TBESHAH1 00000008 061325 10733989
02 FC:1463 70.00 DA 130.00 OP

Applicants, through their undersigned attorney, hereby petition the Commissioner to accept this Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a). Applicants make the following declaration:

REQUEST FOR RECONSIDERATION OF PETITION

1. Inventor Doug Dew, a former employee of BEA Systems, Inc., is a joint inventor in the above-identified application.

2. From June 8, 2004 through April 14, 2005, Applicants' attorney, in his customary practice of obtaining executed formal papers, attempted to contact Mr. Dew several times, including on June 8, 2004; June 15, 2004; July 15, 2004; August 24, 2004; August 26, 2004; September 13, 2004; December 6, 2004; January 18, 2005; April 7, 2005; and April 13, 2005. A copy of each communication has been previously provided to the Office together with Applicants' Request for Reconsideration of Petition filed on April 25, 2005.

3. Several of the above-referenced communications to Mr. Dew included a complete copy of the application (including Specification, Claims, and Drawings), together with a set of formal papers (Declaration and Assignment) for signing by the inventor. An example is the letter mailed to Mr. Dew on June 15, 2004, a copy of which letter is attached herewith for convenience. Others of the above-referenced communications included only the formal papers.

4. In the Decision Refusing Status Under 37 C.F.R. §1.47 mailed June 6, 2005, the Office noted, in item (1), that it appeared Applicants had not presented the non-signing inventor with a complete copy of the application (Specification, Claims, and Drawings).

5. On October 13, 2005, Applicants contacted the Office to discuss the above-referenced matter. Applicants thank Petitions Attorney Mr. Derek L. Woods for the courtesy of an interview on that date, during the course of which interview Applicants and Mr. Woods discussed the various communications to Mr. Dew, including the June 15, 2004 letter, which Applicants believe indicates that Applicant did present Mr. Dew with a complete copy of the application.

6. Applicants' attorney believes the above-referenced communications show that Applicants have made a diligent effort in attempting to contact Mr. Dew, including providing Mr. Dew with a complete copy of the application and formal papers, so as to fulfill the formal documents requirement in a timely manner.

7. Due to Mr. Dew's lack of response, Applicants' attorney concludes that Mr. Dew

is unwilling to participate in the application or to execute the necessary formal documents.

8. In addition, and in response to the Office's objection in item (2) of the Decision Refusing Status Under 37 C.F.R. §1.47 mailed June 6, 2005, Applicants have amended the Declaration to indicate inventor Doug Dew's citizenship to the best and current knowledge of the Applicants.

9. Inventor Doug Dew's last known contact information is 2545 W. Springfield, Apt. 6, Champaign, IL 61821. Mr. Dew's last known email address is doug@dew.name.

10. Accordingly, Applicants' attorney respectfully request that the Commissioner grants this petition on behalf of the other signing inventor, and proceeds with the prosecution of this application.

PETITION TO WITHDRAW HOLDING OF ABANDONMENT

11. On September 8, 2005, a Notice of Abandonment was mailed by the Office in the above-referenced matter. The Notice of Abandonment indicated that the present application became abandoned due to failure to respond to the Decision Refusing Status Under 37 C.F.R. §1.47, that had been mailed by the Office on June 6, 2005.

12. In view of Applicants' present declaration, in that Applicants believe they provided the necessary documentation in Applicants' original Request for Reconsideration of Petition filed on April 25, 2005, Applicants respectfully request that the holding of Abandonment be withdrawn.

13. Alternatively, and in addition, given that the Decision Refusing Status Under 37 C.F.R. §1.47 was mailed by the Office June 6, 2005, and that extensions of time are available to respond, Applicant respectfully submits that the Notice of Abandonment mailed on September 8, 2005 was premature. For this reason also, Applicants respectfully request that the holding of Abandonment be withdrawn.

14. A check in the amount of \$1150.00 for the fees of the Petition Under 37 C.F.R. §1.47(a) (\$130.00) and the Petition for Extension of Time to respond to the Decision (\$1020.00) is enclosed herewith. The Commissioner is hereby authorized to charge any deficiencies or credit overpayment to Deposit Account No. 06-1325. A duplicate copy of this authorization is enclosed.

Respectfully submitted,

FLIESLER MEYER LLP

Date: November 7, 2005

By: _____



Karl F. Kenna
Reg. No. 45,445

FLIESLER MEYER LLP
Four Embarcadero Center, Fourth Floor
San Francisco, California 94111-4156
(415) 362-3800

FLIESLER MEYER LLP

INTELLECTUAL PROPERTY LAW

FOUR EMBARCADERO CENTER • FOURTH FLOOR
SAN FRANCISCO • CALIFORNIA 94111-4156
TELEPHONE 415.362.3800
FACSIMILE 415.362.2928
INTERNET WWW.FDML.COM



MARTIN C. FLIESLER
SHELDON R. MEYER
THOMAS A. WARD

OF COUNSEL
CHARLES H. JEW
D. BENJAMIN BORSON, Ph.D.

STEPHEN R. BACHMANN
JEFFREY R. KURIN
DANIEL J. BURNS
MICHAEL ROBBINS
JOSEPH P. O'MALLEY
MELISSA L. BASCH
BRYON T. WASSERMAN
SUVASHIS BHATTACHARYA
J. STEVEN SVOBODA

PATENT AGENTS
KARL F. KENNA
SALLY A. SWEDBERG, Ph.D.
T. DAVID XUE, Ph.D.

KARL F. KENNA
kfk@fdml.com

June 15, 2004

VIA FEDERAL EXPRESS

Doug Dew
4610 Raleigh St.
Denver, CO 80212

Re: United States Patent Application
Title: SYSTEM AND METHOD FOR SOFTWARE APPLICATION
DEVELOPMENT IN A PORTAL ENVIRONMENT
Inventors: Timothy Breeden and Doug Dew
Appln. No.: 10/733,989
Filing Date: December 11, 2003
Our File No.: BEAS-01278US1

Dear Doug:

Enclosed please find the following original documents for execution with respect to the above-identified patent application:

- Copy of the application as filed;
- Declaration for Patent Application; and
- Joint to Corporate Assignment

Please review the enclosed application and carefully read the Declaration and Assignment before executing them. If there are any changes to your address, please feel free to correct it and fill any blanks, i.e., citizenship information.

If all the statements in the Declaration are true, please sign and date the Declaration. After signing and dating the Declaration, please then execute the Assignment.

When all the documents have been signed, please fax the signed copies of the Declaration and Assignment back to my attention at (415) 362-2928, preferably by **June 25, 2004**. Then please return the originals by mail. You may keep the copy of the application for your records.

We have sent a separate letter and a set of documents to Timothy Breeden for his review and signature.

If you have any questions or comments regarding the patent application or these documents, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Karl Kenna', written in a cursive style.

Karl Kenna

KFK:nmb

Enclosures

cc: Sheldon R. Meyer, Esq. (w/o encl.)

kfk/beas/1278us1.clt.ltr.inventors.miss part2.wpd

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Reference number BEAS-01278US1
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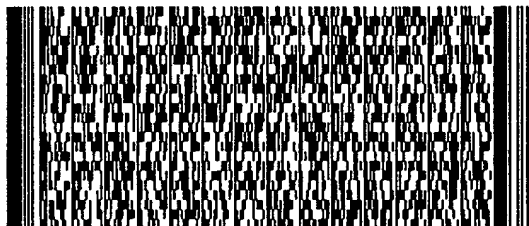
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Doug Dew

4610 Raleigh St.

Denver, CO 80212

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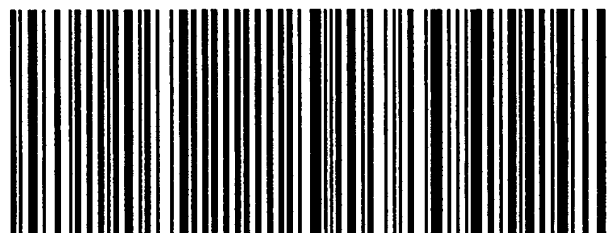
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application

Inventor(s): Timothy Breeden and Doug Dew
Appln. No.: 10/733,989
Confirm. No.: 2063
Filed: December 11, 2003
Title: SYSTEM AND METHOD FOR SOFTWARE
APPLICATION DEVELOPMENT IN
A PORTAL ENVIRONMENT

PATENT APPLICATION

Art Unit: Unassigned
Examiner: Unassigned

Customer No.: 23910

DECLARATION FOR PATENT APPLICATION

As a below named inventor, I hereby declare that my residence, mailing address and citizenship are as stated below next to my name. I believe that I am the original, first and sole inventor (if one name is listed below), or first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

**SYSTEM AND METHOD FOR SOFTWARE APPLICATION
DEVELOPMENT IN A PORTAL ENVIRONMENT**

the specification of which (check applicable ones):

_____ is filed herewith;
☒ was filed with the above-identified and Appln. No. 10/733,989 on December 11, 2003;
_____ was amended on (or amended through) _____.

I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment(s) referred to above. I acknowledge the duty to disclose information which is material to the examination of the application in accordance with Title 37, Code of Federal Regulations, §1.56.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

(1) Full name of sole
or first inventor: Timothy Breeden

(1) Residence: 1301 Canyon Blvd., Apt. 309
Boulder, CO 80302-5364

(1) Mailing Address: 2315 North First Street
San Jose, CA 95131

(1) Citizenship: United States

(1) Inventor's signature: _____

(1) Date: _____

(2) Full name of second
joint inventor: Doug Dew

(2) Residence: 4610 Raleigh St.
Boulder, CO 80212

(2) Mailing Address: 2315 North First Street
San Jose, CA 95131

(2) Citizenship: United States

(2) Inventor's signature: _____

(2) Date: _____

**SECTION 1.56. DUTY TO DISCLOSE INFORMATION
MATERIAL TO PATENTABILITY**

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§1.97(b)-(d) and 1.98.* However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a *prima facie* case of unpatentability of a claim; or

(2) It refutes, or is inconsistent with, a position the applicant takes in:

- (i) Opposing an argument of unpatentability relied on by the Office; or
- (ii) Asserting an argument of patentability.

A *prima facie* case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
 - (2) Each attorney or agent who prepares or prosecutes the application; and
 - (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.
- (d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

* §§1.97(b)-(d) and 1.98 relate to the timing and manner in which information is to be submitted to the Office.